

189A.107 License suspension for refusal to take alcohol or substance tests -- Ignition interlock license -- Hearing on alleged refusal --Time period for suspension.

- (1) A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated KRS 189A.010(1) shall have his driver's license suspended by the court during the pendency of the action under KRS 189A.200 unless, at the time of arraignment, the person files a motion with the court waiving the right to judicial review of the suspension, after which the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under KRS 189A.420 for the period of the suspension. If the person complies with the requirements of KRS 189A.420 and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and apply the court-determined credit on a day-for-day basis for any subsequent ignition interlock requirement arising from the same incident.
- (2) In the event a defendant is not convicted of a violation of KRS 189A.010(1) in a case in which it is alleged that he refused to take an alcohol concentration or substance test, upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by clear and convincing evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under KRS 189A.200 and 189A.220. If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for a period of time within the time range specified that the license would have been suspended upon conviction as set forth in KRS 189A.070(1), except that the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under KRS 189A.420 for the period of the suspension. If the person complies with the requirements of KRS 189A.420 and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and grant the person day-for-day credit for any subsequent ignition interlock requirement arising from the same incident.

Effective: June 24, 2015

History: Amended 2015 Ky. Acts ch. 124, sec. 6, effective June 24, 2015. -- Amended 2000 Ky. Acts ch. 467, sec. 10, effective October 1, 2000. -- Created 1991 (1st Extra. Sess.) Ky. Acts ch. 15, sec. 16, effective July 1, 1991.